

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

PRINCE MCCOY, SR.	§	
VS.	§	CIVIL ACTION NO. 1:21-CV-505
BRYAN WILLIAMS, ET AL.	§	

ORDER ADOPTING THE MAGISTRATE
JUDGE'S REPORT AND RECOMMENDATION

Plaintiff Prince McCoy, Sr., a prisoner previously confined at the Stiles Unit of the Texas Department of Criminal Justice, Correctional Institutions Division, proceeding *pro se*, filed this civil rights action pursuant to 42 U.S.C. § 1983.

The Court referred this matter to the Honorable Christine L. Stetson, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this Court. On November 25, 2024, the magistrate judge recommended dismissing the action for want of prosecution pursuant to Federal Rule of Civil Procedure 41(b). To date, the parties have not filed objections to the report and recommendation.

The Court received and considered the Report and Recommendation of United States Magistrate Judge pursuant to such referral, along with the record, pleadings and all available evidence. After careful review, the Court finds that the findings of fact and conclusions of law of the United States Magistrate Judge are correct.

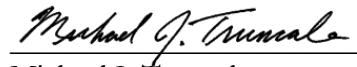
Because the statute of limitations would bar future litigation of Plaintiff's claims, a dismissal would act as a dismissal with prejudice. A dismissal with prejudice is appropriate only if there is a clear record of delay or contumacious conduct by the plaintiff, and if lesser sanctions would not

serve the interests of justice. *Coleman v. Sweetin*, 745 F.3d 756, 766 (5th Cir. 2014). In this case, Plaintiff has not exhibited a clear record of contumacious conduct, but his failure to comply with an order to submit an amended pleading impedes the Court's ability to screen his Complaint and prevents this case from moving forward. The Court has considered imposing lesser sanctions and found them inadequate to address the current situation. Because Plaintiff is proceeding *in forma pauperis*, the imposition of monetary sanctions is almost certainly futile. A dismissal is the only sanction available in this instance, but the Court will lessen the sanction by allowing Plaintiff to reopen the case by submitting an amended pleading in compliance with the Court's order within thirty days of the date the judgment is entered.

ORDER

Accordingly, the findings of fact and conclusions of law of the magistrate judge are correct, and the report of the magistrate judge [Dkt. 16] is ADOPTED. A final judgment will be entered in accordance with this memorandum order.

SIGNED this 9th day of January, 2025.



Michael J. Truncala
United States District Judge